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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,522	06/25/2003	Tsunetoshi Miura	AA597	4100
27752	7590	12/14/2005	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/603,522	Applicant(s) MIURA ET AL.	
	Examiner Melanie J. Hand	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Response to Arguments

In response to Applicant's amendment to claims 1, 2, 8, 12 and 14 to overcome the objection to these claims, Examiner is withdrawing the objection. Applicant's argument with respect to said objection regarding reading of the specification into the claims by Examiner is moot in view of this withdrawal.

Applicant's arguments filed September 20, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, modifying the bodyside liner taught by Jordan by replacing it with another suitable topsheet material with increased light transmittance would have a reasonable expectation of success, as both articles are absorbent articles therefore satisfying the criteria of analogous art for a rejection under 35 U.S.C. 103(a) ("103 rejection"). The two articles have a substantially identical structure, the only difference being the dimensions of the analogous layers since Haarer is teaching a sanitary napkin and Jordan teaches a training pant. Examiner has cited in a previous Office action and again in this Office action the motivation for modification and combination as taught specifically by Haarer and cited herein. Examiner believes that this also addresses applicant's argument that the fact that references can be

combined does not render the combination obvious. Examiner agrees, but again directs applicant to the substantially identical structure of the two teachings that does make this particular combination obvious.

With regard to applicant's argument that neither Jordan nor Haarer teaches nor suggests the placement of graphics of a garment in combination with the limitation that those graphics be visible to the wearer, Examiner disagrees and reminds applicant that the rejection is a 103 rejection and therefore the claims would have to overcome a rejection based on the combined teaching of Jordan and Haarer, not each one individually. Jordan does fairly suggest placement of graphics on a bodyside liner because he teaches graphics that are disposed so as to be "in liquid communication with absorbent assembly 44" ('954, ¶ 0078). There are a number of different placements of said graphics that are encompassed by that teaching other than the explicit examples given by Jordan, e.g., the inner layer of outer cover 40. Since Jordan also teaches that the inner layer of outer cover 40 and the bodyside liner 42 are comprised of the same liquid-permeable material, Jordan does in fact fairly suggest placement of graphics on said bodyside liner, either on a body-facing or garment-facing surface since both are in liquid communication with the absorbent assembly according to Jordan's definition of the term. ('954, ¶ 0024) Thus the combined teaching of Jordan and Haarer, who contributes a transparent cover sheet that would allow visibility and protection of such a graphic, would indeed lead one of ordinary skill in the art to the claimed invention.

With regard to applicant's argument that the Jordan and Haarer references teach away from the claimed invention, Examiner has already addressed the Jordan reference's teachings herein and believes that Jordan does not teach away from the claimed invention for reasons already stated with respect to applicant's other arguments. With regard to the Haarer reference teaching away from the claimed invention, Haarer teaches that the materials for the outer cover

and cover sheet are pigment-free and that only the outer cover should remain pigment-free. ('192, Col. 3, lines 13-15) The fact that the outer cover and cover sheet are comprised of pigment-free materials has no bearing on their ability to further function in the intended manner should pigment be added to them. Since the combined teaching of Jordan and Haarer fairly suggests the existence of graphics on the cover sheet, and Haarer does not teach that the cover sheet must remain pigment-free, Examiner concludes that the function of the light transmitting material of the cover sheet of the combined teaching will not be destroyed and thus that the combined teaching is valid and renders claims 1-14 unpatentable.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,3-7 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jordan ('954) in view of Haarer et al ('192).

With respect to **Claim 1**: Jordan ('954) teaches training pant 20 (Fig. 1) with liquid permeable bodyside liner 42, outer layer 62 of outer cover 60, and absorbent assembly 44 (Fig. 3). Jordan ('954) teaches an absorbent assembly 44 having zones of different concentration of absorbent material to absorb and contain body exudates (Paragraph 0083), interpreted here as encompassing the concept of an edge defining an inner core region. Jordan ('954) teaches that absorbent assembly 44 is sandwiched between bodyside liner 42 and outer cover 40. Liner 42 and outer cover 40 are joined together by any suitable means as is well known in the art (Paragraph 0083) and are shown to extend outward from the edge of absorbent assembly 44 as shown in Fig. 3. Jordan ('954) teaches a graphic printed on the inner, body-facing surface 64 of

inner layer 60 of outer cover 40 (Paragraph 0073). Jordan ('954) teaches that liner 42 and outer cover 40 jointly define at least one graphic region (Paragraph 0007).

Jordan ('954) does not teach a first light transmittance corresponding to the bodyside liner 42. Haarer ('192) teaches an absorbent article with a substantially transparent (i.e. light transmittance between 60% and 100% (Col. 2, lines 43-45)) liquid permeable cover layer. Haarer ('192) teaches that the transparency of the cover layer allows it to be non-discernible through clothing and thereby provides discretion to the user. Therefore, it would be obvious to modify the body-side liner taught by Jordan ('954) to be substantially transparent to provide a more discrete article for the user as taught by Haarer ('192).

With respect to **Claim 2**: Please see the rejection of Claim 1 in addition to the following: Jordan teaches that active object graphic 78 are in liquid communication with absorbent assembly 44, meaning that "liquid such as urine is capable of moving between the active object graphic and the absorbent assembly under ordinary use conditions" ('954, ¶ 0078) Although Jordan is silent regarding placement of active object graphics 78 on a garment facing surface of bodyside liner 42, given that active graphics 78 are in liquid communication with absorbent assembly 44, and that Jordan teaches that the same material that is used for the inner layer of outer cover 40, where active graphics 78 are disposed, is used for the bodyside liner ('954, ¶¶ 0012, 0081), Examiner is concluding that it would be an obvious modification to dispose active graphics 78 on a garment facing surface of bodyside liner 42 in at least a portion of the outer region, as said graphics would still be in liquid communication with assembly 44 and would be disposed on the same material as outer cover 40.

With respect to **Claims 3 and 5**: Jordan ('954) teaches graphics disposed on an outer cover layer 40 with light transmittance of 80% or greater that is interpreted here as transparent, which allows a user to see the graphic through outer cover 40 (Paragraph 0010).

With respect to **Claim 4**: Jordan ('954) does not teach that bodyside liner 42 is transparent and thus does not teach a first light transmittance corresponding to the bodyside liner 42. Haarer ('192) teaches an absorbent article with a substantially transparent (i.e. light transmittance between 60% and 100% (Col. 2, lines 43-45)) liquid permeable cover layer. Haarer ('192) teaches that the transparency of the cover layer allows it to be non-discernible through clothing and thereby provides discretion to the user. Therefore, it would be obvious to modify the body-side liner taught by Jordan ('954) to be substantially transparent to provide a more discrete article for the user as taught by Haarer ('192).

With respect to **Claims 6 and 7**: Jordan ('954) does not teach a difference between a first transmittance for bodyside liner 42 and second transmittance for outer cover 40. Haarer ('192) teaches that both cover layer and backsheet have a transmittance of between 60% and 100% therefore the difference between the two transmittances will fall in the range of 0% to 40%. Haarer ('192) teaches that the transparency of the cover layer allows it to be non-discernible through clothing and thereby provides discretion to the user. Therefore, it would be obvious to modify the body-side liner taught by Jordan ('954) to possess these light transmittance ranges and differences to provide a more discrete article for the user as taught by Haarer ('192).

With respect to **Claims 10 and 11**: As can best be seen in Fig. 3, Jordan teaches that core 44 is not transversely coterminal with outer cover 40 or bodyside liner 42, therefore there exists an

outer region of training pant 20 that is defined by the portion of outer cover 40 and bodyside liner 42 joined together that extends beyond the transversely opposed side edges of core 44. (¶ 0083) Jordan teaches waist edges 56 and 58 that extend beyond the lateral edges of core 44. (¶ 0070)

With respect to **Claim 12**: Jordan teaches that chassis 32 is comprised of a pair of containment flaps (not shown). (¶ 0068)

With respect to **Claims 9,13 and 14**: Jordan ('954) does not explicitly teach a graphic protection layer in absorbent chassis 32. As stated in the previous Office action, Applicant has set forth in the disclosure that "a material which has a suitable light transmittance can be selected for the graphic protection layers 34 in the outer region 26, while another material which has a suitable liquid permeability can be selected for the topsheet layer 32 in the core region 25. This is beneficial since it is not always easy to find one material that can meet the both requirements for the body contacting layer 30 (e.g., appropriate light transmittance and liquid permeability)." (Specification, Page 6, lines 20-26).

Haarer ('192) teaches specific available transparent materials for manufacturing a cover sheet, a 9 gsm polypropylene, code SB-PTE 09 available from Shalag, Upper Tieberias, Israel (Col. 3, lines 12-18), and for the impermeable transparent backsheet a polyethylene monolithic film under the trade name Hytrel by DuPont or Atochme by Pebax (Col. 4, lines 38-46). Examiner concludes that Haarer ('192) is teaching accessible, known materials that possess both acceptable liquid permeability (or impermeability) and acceptable transparency properties and thus graphic protection properties, and thus also that said graphic protection material

possesses a light transmittance that falls in the range set forth by Haarer for the light transmittance of said cover sheet.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER



Melanie J Hand
Examiner
Art Unit 3761